

REMARKS

Claims 1 to 7, 63 and 64 remain pending in the application. No claim has been added, amended, or canceled.

The advisory action states that "Applicants arguments with respect to 112, first paragraph is not persuasive. The instant invention is not drawn only to antibody but to a fusion of antibody containing a randomized Ang-2 binding peptide." In this statement and in others in the office actions, the Examiner seems to suggest that the presence of the "randomized Ang-2 binding peptide" by itself renders the claims objectionable under Section 112, first paragraph.

The Applicants wish to call the examiner's attention to U.S. Pat. App. 2003/0236193, published December 25, 2003, and the references cited therein. The references cited in this published application show that ang-2 was known prior to the applicants' filing date. Moreover, the specification of the published application shows actual preparation and characterization of ang-2 binding peptides and peptibodies using the methods described in the subject application.

The Applicants further call the examiner's attention to U.S. Pat. Nos. 6,743,788; 6,660,843; 6,872,393; 6,824,782; 6,596,757; 6,706,708; and 6,310,039. The '788 and '843 patents claim molecules of similar structure to the Applicants' claims but with different binding specificity. In the '393 and '782 patents, the claims are directed toward molecules having a "peptide linker" of undefined sequence that links antibody heavy or light chains that are not defined by sequence or binding specificity. The '757 and '708 patents claim molecules linking a "taxane" to a "cell binding agent" (claim 20 of the '757 patent, claim 4 of the '708 patent). The '039 patent claims a conjugate of a cytostatic compound with albumin and transferrin or a "monoclonal antibody directed to a tumor associated antigen."

The aforementioned patents include claims defining an invention with both structural and functional parameters, frequently with one substituent defined structurally and another defined functionally. These patents use broader structural or functional parameters—or both—than are employed by the Applicants' current claims. Here, the Applicants define part of the overall molecule structurally (Fc domain) and another part by a combination of functional language (ang-2 binding) and structural language (peptides of 2 to 40 amino acids). The Applicants fail to see how their ang-2 binding peptides could render the claims objectionable under Section 112, first paragraph in view of the aforementioned patented molecules, which comprise substituents defined only as "cell binding agent," "cytostatic compound," "peptide linker," and the like.

In light of the foregoing remarks, the Applicants respectfully request reconsideration of the Office Action, entry of all amendments, and allowance of all claims.

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